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9	Attorneys for Nonparty			
10	HEWLETT-PACKARD COMPANY			
11				
12	UNITED STATES DISTRICT COURT			
13	FOR THE NORTHERN DISTRICT OF CALIFORNIA			
14	SAN JOSE DIVISION			
15	SAN JOSI	E DIVISION		
16	In re IBM Subpoena in the matter of:	CASE NO. 5:07	7-mc-80174-JW PVT	
17	INTERNATIONAL BUSINESS MACHINES CORPORATION,	District Court fo	on pending in the United States or the Southern District of New O. CV 06-13565 SCR	
18	Plaintiff and Counterclaim			
19	Defendant,		IEWLETT-PACKARD SECOND AMENDED	
20	v.	NOTICE OF MOTION TO MODIFY SUBPOENA AND FOR A PROTECTIVE		
21	PLATFORM SOLUTIONS, INC.,	ORDER	AND FOR A TROTECTIVE	
22	Defendant and Counterclaimant.	Previous Date:	September 11, 2007 October 23, 2007	
23		New Date: Time:	10:00 a.m.	
24		Place: Before:	Courtroom 5 The Honorable Patricia V.	
25			Trumbull	
26				
	NOTICE IS HEREBY GIVEN that the above-titled hearing, formerly scheduled for			
27	September 11, 2007, for which Nonparty Hewlett-	Packard Company	y ("HP") previously filed with the	
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Gibson, Dunn & Crutcher LLP 2

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Court a motion to modify the scope of the Subpoena served by IBM on HP in the underlying action (the "Subpoena"), has been continued to October 23, 2007, at 10:00 a.m., or as soon thereafter as counsel may be heard by the above-titled Court, located at 280 South 1st Street, San Jose, CA 95113.

By way of the previously filed motion, and any additional briefing that the Court may require, HP moves this Court, pursuant to Federal Rule of Civil Procedure 45, for an order limiting the scope of the Subpoena served by IBM on HP in this action and directing IBM to reimburse HP for reasonable costs associated with complying with the Subpoena, on the grounds that the Subpoena: (1) is overly broad on its face, and therefore fails to allow reasonable time for compliance; (2) seeks disclosure of privileged or other protected matter; (3) subjects HP to undue burden; and (4) requires disclosure of a trade secret or other confidential research, development, or commercial information. For these reasons, and because HP's counsel had acted in good faith, HP further moves this Court pursuant to Federal Rule of Civil Procedure 26(c) subdivisions (2), (3), (4) & (7), for an order that that the discovery be had only on the specified terms and conditions of, by the method set forth, and subject to the objections in HP's Objections and Responses to the May 31, 2007 Subpoena (filed concurrently herewith as Exhibit G to the Declaration of Angelique Kaounis), and further, that HP be awarded reasonable costs necessitated by the filing of this motion.

The Motion referenced herein is based on this Notice of Motion, and HP's Motion and accompanying Memorandum of Points and Authorities, the Declaration of Angelique Kaounis and Request for Judicial Notice (all previously filed on July 2, 2007), and on all pleadings and papers on file in this action, and upon such other evidence and arguments as may be presented to the Court at the time of the hearing.

DATED: August 17, 2007

JEFFREY T. THOMAS ANGELIQUE KAOUNIS GIBSON, DUNN & CRUTCHER LLP

By: /s/ Angelique Kaounis

Angelique Kaounis

Attorneys for Nonparty HEWLETT-PACKARD COMPANY

CERTIFICATE OF SERVICE

MAIL, COMMERCIAL OVERNIGHT MESSENGER, FAX, HAND DELIVERY

I, Joyce Tanabe, hereby certify as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 333 South Grand Avenue, Los Angeles, California 90071, in said County and State; I am employed in the office of Angelique Kaounis, a member of the bar of this Court, and at her direction, on August 17, 2007, I served the following:

NONPARTY HEWLETT-PACKARD COMPANY'S SECOND AMENDED NOTICE OF MOTION TO MODIFY SUBPOENA AND FOR PROTECTIVE ORDER

on the interested parties in this action, by:

Service by Mail: placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

Service by Commercial Overnight Messenger: placing true and correct copy(ies) thereof in an envelope addressed to the attorney(s) of record, addressed as follows:

Richard W. Erwine, Esq.
Katherine Weall, Esq.
Quinn Emanuel Urquhart
Oliver & Hedges, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212) 849-7000 (tel.)
(212) 849-7100 (fax)
richarderwine@quinnemanuel.com
KatherineWeall@QuinnEmanuel.com

Ryan C. Kirkpatrick Susman Godfrey LLP 1901 Ave. of the Stars, Suite 950 Los Angeles, CA 90067 (310)-789-3107 (tel.) (310)-789-3016 (fax) rkirkpatrick@susmangodfrey.com

[Counsel for PSI]

[Counsel for IBM]

Gibson, Dunn &

Crutcher LLP

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1	and after sealing said envelope I caused same to be delivered to the aforementioned attorney(s) by			
2	qualified commercial overnight messenger.			
3	Service by Fax: causing a true copy thereof to be sent via facsimile to the attorney(s) of			
4	record at the telecopier number(s) so indicated, addressed as follows:			
5	Attorney Name & Address Fax and Callback Number			
6				
7	and that the transmission was reported as completed and without error. A true and correct copy of			
8	said transmission report is attached hereto.			
9	Service by Hand Delivery: delivering true and correct copy(ies) thereof and sufficient			
10	envelope(s) addressed to the attorney(s) of record, addressed as follows:			
11				
12	to a messenger or messengers for personal delivery.			
13	I certify under penalty of perjury that the foregoing is true and correct, that the foregoing			
14	document(s), and all copies made from same, were printed on recycled paper, and that this Certificate			
15	of Service was executed by me on August 17, 2007 at Los Angeles, California.			
16	Joyce Tanabe			
17	Joyce Tanabe			
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